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9 *Attorneys for Defendants VIZIO, AmTRAN, TPV, and Innolux*

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 POLARIS POWERLED
14 TECHNOLOGIES, LLC

15 Plaintiff,

16 v.

17 VIZIO, INC., HON HAI
18 PRECISION INDUSTRY CO., LTD.
19 D/B/A FOXCONN TECHNOLOGY
20 GROUP, COMPETITION TEAM
21 TECHNOLOGY USA INC., TOP
22 VICTORY ELECTRONICS
23 (TAIWAN) CO. LTD., TOP
24 VICTORY INVESTMENTS LTD.,
25 TPV TECHNOLOGY LTD., TPV
26 INTERNATIONAL (USA), INC.,
27 TREND SMART AMERICA, LTD.,
28 INNOLUX CORP., INNOLUX
USA, INC., AMTRAN
TECHNOLOGY CO., LTD.,
AMTRAN LOGISTICS, INC., and
NEWEGG, INC.,

Defendants.

Case No. 2:23-cv-03478

**DEFENDANTS' MOTION FOR
LEAVE TO FILE
SUPPLEMENTAL RESPONSE
TO PLAINTIFF'S RESPONSIVE
CLAIM CONSTRUCTION
BRIEFING**

Judge: Honorable George Wu
Date: April 4, 2024
Time: 8:30 a.m.
Courtroom: 9D

1 **NOTICE OF MOTION AND MOTION**

2 TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

3 PLEASE TAKE NOTICE THAT ON April 4, 2024 at 8:30 a.m., or as soon
4 thereafter as the matter may be heard before the Honorable George Wu in Courtroom
5 9D of the United States District Court for the Central District of California, Los
6 Angeles Division, located at 350 West 1st Street, Los Angeles, CA, 90012,
7 Defendants VIZIO, Inc. (“VIZIO”), and Hon Hai Precision Industry Co., Ltd. d/b/a
8 Foxconn Technology Group, Competition Team Technology USA Inc. (collectively,
9 “Foxconn”), Top Victory Electronics (Taiwan) Co. Ltd., Top Victory Investments
10 Ltd., TPV Technology Ltd., TPV International (USA), Inc., and Trend Smart
11 America, Ltd. (collectively, “TPV”), Innolux Corp., and Innolux USA Inc.
12 (collectively, “Innolux”), AmTRAN Technology Co., Ltd., and AmTRAN Logistics,
13 Inc. (collectively, “AmTRAN”), and Newegg, Inc. (“Newegg”) (collectively,
14 “Defendants”), by and through their respective counsel, will and hereby do submit
15 their motion for leave to file a supplemental claim construction response.

16 This Motion is made following the conference of counsel pursuant to L.R. 7-3,
17 which took place on February 29, 2024 and again on March 7, 2024, and subsequent
18 communications between the parties. Polaris PowerLED Technologies, LLC
19 (“Polaris” or “Plaintiff”) indicated it opposes the relief requested herein.
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1 **I. INTRODUCTION**

2 Defendants respectfully request leave to file a supplemental response and
3 supporting declaration regarding the claim terms “staggered PWM brightness control
4 signals” / “staggered pulse with moduled (PWM) brightness control signals.” Leave
5 is warranted because Polaris raised new arguments for the first time in its responsive
6 claim construction brief that should have been raised in its opening brief. Defendants’
7 short response will provide useful context, provide notice to Polaris of Defendants’
8 response and supporting evidence, and allow for a more orderly *Markman* hearing.

9 **II. GOOD CAUSE EXISTS FOR ALLOWING DEFENDANTS’**
10 **SUPPLEMENTAL BRIEFING**

11 In its responsive claim construction brief, Polaris presented a new argument
12 that the ’148 Patent’s disclosure of “staggered” signals allows for signals which “can
13 be staggered in time and have the same duty cycle *but have different frequencies.*”
14 *See* Dkt. 72-1 at p. 4 (emphasis added). On this basis, Polaris argues that Defendants’
15 construction of “staggered,” which states that the “staggered” signals are “identical”
16 but out of phase, is incorrect, because Polaris alleges the signals can vary not just in
17 phase, but in frequency. That argument is based on a fundamental misunderstanding
18 of the claims and their recitation of the relevant signals as “out of phase.”

19 Because Polaris first presented this argument in its responsive brief, Defendants
20 now seek leave to file a short supplemental response and supporting expert
21 declaration. As demonstrated by the attached Appx. A (proposed supplemental
22 response and supplemental declaration with exhibits), Defendants seek to submit only
23 limited argument and relevant evidence and testimony showing that to be “out of
24 phase” as the signals in the claims are recited to be, the signals must “hav[e] the same
25 frequency and waveshape” and thus cannot, as Polaris contends, have different
26 frequencies.

1 There is good cause here for the Court to allow Defendants to submit their
2 proposed supplemental brief and declaration. *See* N.D. Cal. Patent Local Rule 1-3.¹
3 Courts have the discretion to allow supplemental claim construction briefing and
4 arguments as needed. *See, e.g., Power Integrations, Inc. v. ON Semiconductor Corp.,*
5 *et al.*, Case No. 5:16-cv-06371, Dkts. 181, 185 (N.D. Cal. Sept. 17, 2018) (granting
6 supplemental claim construction where plaintiff raised new arguments in an *inter*
7 *partes* review of an asserted patent after claim construction briefing had closed); *see*
8 *also Uniloc 2017, LLC v. HTC America, Inc.*, Case No. 2:18-cv-1732-RSM, Dkts. 57,
9 64 (W.D. Wa. July 27, 2020) (same). Doing so provides for a more orderly process
10 at any subsequent hearing, and will give notice to Polaris regarding Defendants’
11 response and supporting evidence.

12 **III. CONCLUSION**

13 For the foregoing reasons, Defendants respectfully request leave to file the
14 attached supplemental response and supporting declaration.
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28 ¹ The Court adopted the “substance of the Northern District of California’s Local Patent Rules” in its Notes re August 7, 2023 Scheduling Conference. Dkt. 51 at 2.

1 Dated: March 7, 2024

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ATTORNEY ATTESTATION

I, Zachariah Summers, am the ECF User whose ID and password are being used to file this stipulation. In compliance with Local Rule 5-4.3.4, I hereby attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing's content and have authorized the filing.

Dated: March 7, 2024

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CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for VIZIO, AmTRAN Defendants, Top Victory Electronics Defendants, and Innolux Defendants, certifies that this brief contains 465 words which complies with the word limit of L.R. 11-6.1 in the filing's content and have authorized the filing.

Dated: March 7, 2024

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PROOF OF SERVICE

I, Yunzhi Lin, hereby certify that on March 7, 2024, I electronically filed the foregoing document, **DEFENDANTS' MOTION FOR LEAVE TO FILE SUPPLEMENTAL CLAIM CONSTRUCTION RESPONSE**, with the Clerk of Court using the CM/ECF System which will send notification to all counsel of record.

Dated: March 7, 2024

/s/ Yunzhi Lin

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